

PATENT COOPERATION TREATY

PCT/EP2004/052307

From the INTERNATIONAL BUREAU

PCT

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY
(CHAPTER I OR CHAPTER II
OF THE PATENT COOPERATION TREATY)
(PCT Rules 44bis 3(c) and 72.2)

To:

Dres Fitzner & Münch

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17. APR. 2006

Frist :

VFrist :

Vlg :

Date of mailing (day/month/year)
03 August 2006 (03.08.2006)

Applicant's or agent's file reference
PAT00385PCT-

IMPORTANT NOTIFICATION

International application No
PCT/EP2004/052307

International filing date (day/month/year)
08 September 2004 (08.09.2004)

Applicant

BASI COATINGS AG et al

1 Transmittal of the translation to the applicant.



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter I).



The International Bureau transmits herewith a copy of the English translation of the international preliminary report on patentability (Chapter II).

2 Transmittal of the copy of the translation to the designated or elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following designated or elected Offices requiring such translation:

None

The following designated or elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, AZ, BA, BB, BG, BR, BW, BY, BZ, CA, CH, CN, CO, CR, CU, CZ, DE, DK, DM, DZ, EA, EG, EF, EG, EP, ES, FI, GB, GD, GE, GH, GM, GR, HU, ID, IL, IN, IS, JP, KE, KG, KP, KR, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MK, MN, MW, MX, MZ, NA, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, RU, SC, SD, SE, SG, SK, SL, SY, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary report on patentability (Chapter II).

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned within the applicable time limit (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

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PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference PAT00385PCT-	FOR FURTHER ACTION		See item 4 below
International application No. PCT/EP2004/052307	International filing date (<i>day/month/year</i>) 08 September 2004 (08.09.2004)	Priority date (<i>day/month/year</i>) 19 September 2003 (19.09.2003)	
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237			
Applicant BASF COATINGS AG			

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 9 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> Box No. II | Priority |
| <input type="checkbox"/> Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> Box No. VI | Certain documents cited |
| <input type="checkbox"/> Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

	Date of issuance of this report 27 July 2006 (27.07.2006)
The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. +41 22 338 89 70	Authorized officer Ellen Moyse e mail: pt05@wipo.int

PATENT COOPERATION TREATY

from the
INTERNATIONAL SEARCHING AUTHORITY

Re:

PCT

Translation

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 13bis 1)

Date of mailing
(day/month/year) **See form PCT/ISA/210**

Applicant's or agent's file reference

PAT00385PCT--

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/EP2004/052307

International filing date (day/month/year)

08.09.2004

Priority date (day/month/year)

19.09.2003

International Patent Classification (IPC) or both national classification and IPC

C09D5/03, C08J3/12, C08J3/21

Applicant

BASF COATINGS AG

1. This opinion contains indications relating to the following items:

- | | | |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the opinion |
| <input checked="" type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Rule 13bis 1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority (IPEA) except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220

3. For further details, see notes to Form PCT/ISA/220

Name and mailing address of the ISA/EP

Authorized officer

Facsimile No.

Telephone No.

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2004/052307

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐

This opinion has been established on the basis of a translation from the original language into the following language

_____ which is the language of a translation furnished for the purposes of international search (under

Rule 12.5 and 23.1(i))

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐

a sequence listing

☐

table(s) related to the sequence listing

b. format of material

☐

in written format

☐

in computer readable form

c. time of filing/furnishing

☐

contained in the international application as filed

☐

filed together with the international application in computer readable form

☐

furnished subsequently to this Authority for the purposes of search

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. ECT/EP2004/052307
Box No. 11	Priority	
<p>1. <input checked="" type="checkbox"/> The following document has not yet been furnished:</p> <p style="margin-left: 40px;"><input checked="" type="checkbox"/> copy of the earlier application whose priority has been claimed (Rule 13bis 1 and 66.7(a))</p> <p style="margin-left: 40px;"><input type="checkbox"/> translation of the earlier application whose priority has been claimed (Rule 13bis 1 and 66.7(b)).</p> <p style="margin-left: 40px;">Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.</p> <p>2. <input type="checkbox"/> This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 13bis 1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.</p> <p>3. Additional observations, if necessary:</p>		

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No PCT/EP2004/052307
Box No. V	Reasoned statement under Rule 43bis(1a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
1. Statement		
Novelty (N)	Claims <u>3, 4, 8, 11, 16-27</u>	YES
	Claims <u>1, 2, 5-7, 12-15</u>	NO
Inventive step (IS)	Claims <u>3, 4, 10, 11, 16-27</u>	YES
	Claims <u>1, 2, 5, 7, 8, 9, 12-15</u>	NO
Industrial applicability (IA)	Claims <u>1-27</u>	YES
	Claims _____	NO
2. Citations and explanations:		
<p>1 The present report refers to the following documents:</p> <p>D1: DE 100 27 293 A (BASF COATINGS AG) 13 December 2001 (2001 12 13)</p> <p>D2: WO 01/88044 A (MERCK PATENT GMBH; ALBRECHT THOMAS (DE); ANSELMANN RALF (DE); RODRIGUE) 22 November 2001 (2001-11-22)</p> <p>2 Document D1 discloses (the references between parentheses refer to this document):</p> <p>A composition of powdery coating substances containing</p> <p>(A) a laminar aluminium effect pigment coated with a polymetacrylate copolymer with a weight ratio of aluminium effect pigment: polymer - 89: 11, and (B) a transparent powdery coating (example 1). The diameter: the layer thickness ratio is not explicitly disclosed in D1 but it is an implicit property of the aluminium effect pigment.</p> <p>The ratio of the laminar thickness to the laminar diameter in the case of laminar metal or aluminium effect pigments is between 0.02-0.002 (Röpplexicon Online, "Formfaktor").</p> <p>2.1 INDEPENDENT CLAIM 1</p>		

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCT/EP2004/052307
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
<p>For that reason document D1 discloses all features stated in independent claim 1 in conjunction with each other. Therefore, the subject matter of this claim is not novel (PCT Article 33(2)).</p>		
<p>3 DEPENDENT CLAIMS 2,5-15</p> <p>Claims 2, 5-15 do not contain any features that in conjunction with the features of any claim to which they refer back meet the PCT requirements for novelty or inventive step.</p>		
<p>4 DEPENDENT CLAIMS 3,4</p> <p>The combination of features contained in the dependent claims are neither known from the available prior art nor are they suggested by it. The reasons are as follows:</p> <p>The medium particle size of the components of the powder slurries as disclosed in D1 is between 0.8 and 40µm. As an upper limit, 40µm are considered reasonable because above that particle size blockage of the flushing channels of the highly sensitive application apparatuses has to be anticipated (§0025).</p>		
<p>5 INDEPENDENT CLAIM 16</p> <p>5.1 Document D2 is considered the closest prior art. It discloses (the references between parentheses refer to this document):</p> <p>A method for producing plate-formed interference pigments. A suspension of mono-dispersed transparent plastic balls with a diameter of 200-500 nm which</p>		

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No. PCI/EP2004/05230 /
Box No. V	Reasoned statement under Rule 43bis (a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
<p>are segregated as a liquid film onto a carrier and, after sedimentation, drying up, and hardening, are broken into plates of 5 5000µm (page 10, line 4-25; page 11, line 28 - page 12, line 1; claims 1, 6, 7 and figure 1).</p> <p>D2 deals with the production of interference pigments by applying as little energy input as possible (page 2, line 11-18). The present method differs from D2 in that the dispersion already contains lamellar effect pigments already formed. In the method disclosed in D2 the interference pigments are formed <i>in situ</i>.</p> <p>5.1.1</p> <p>Hence, the subject matter of claim 16 is novel (PCT Article 33(2)).</p> <p>The present invention addresses the problem that the incorporation and alignment of the lamellar effect pigments in powdery coatings lead to effect coatings which can be reproduced, whereby the effect pigments are directed to a high degree in a parallel manner to the surface of the coating.</p> <p>5.1.2</p> <p>The solution proposed in claim 16 of the present application involves an inventive step (PCT Article 33(3)) for the following reasons:</p> <p>This problem is solved in D1 by means of a powder slurry as already stated in §2 above (§0017). The effect pigments are produced by a method different from that of the present application (§0048).</p> <p>Proceeding from D2, person skilled in the art would not find any indications in D1 for addressing the problem presented in the present application.</p>		

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY		International application No PC1/EP2004/052367
Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	
5.1.3		
<p>Claims 17-24 are dependent on claim 16 and therefore also meet the PCT requirements for novelty and inventive step.</p>		
6 INDEPENDENT CLAIM 25		
<p>6.1 Claim 25 relates to the usage of coating materials in accordance with claim 1 which are produced by means of a method defined in claim 16. Claim 16 is novel and inventive so that the subject matter of claim 25 and, consequently those of claims 26 and 27 too, are also novel and inventive (PCT Article 33(2)(3)).</p>		
7 COMMENTS		
<p>In the case of amendments, the applicant is expressly advised that amendments may only be made if they do not exceed the content of disclosure of the version initially filed. Therefore, in the case of amendments, the applicant is advised to</p> <ul style="list-style-type: none">a) clearly indicate every amendment, for example by handwritten entry into the text of the present application andb) state the part(s) of the application originally filed that support/s each amendment. <p>furthermore, in the case of amendments to the claim the description should be accordingly changed.</p>		

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/EP2004/052307

Box No. VI Certain documents filed

1. Certain published documents (Rule 43bis.1 and 70.10)

Application No.
Patent No.

Publication date:
(day/month/year)

Billing date
(day/month/year)

Priority date (valid claim)
(dd/mm/yy)

2. Non-written disclosure (Rule 4(b)(1) and 7(d)(9))

Kind of non-written disclosure:

Date of non-written disclosure
(day/month/year)

Date of written disclosure
referring to non written disclosure
(day/month/year)

See form 210